



#9

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

ATTY.'S DOCKET: EIS-SCHWARTZ=13B

In re Application of:	)	Art Unit:
	)	
EISENBACH-SCHWARTZ et al.	)	Examiner:
	)	
Appln. No.: 09/765,644	)	Washington, D.C.
	)	
Filed: January 22, 2001	)	April 17, 2002
	)	
For: THE USE OF COPOLYMER 1 AND)		Confirmation No. 6853
RELATED PEPTIDES AND...	)	
	)	

**RESPONSE TO NOTICE TO COMPLY WITH  
SEQUENCE LISTING REQUIREMENTS**

Honorable Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Notice to Comply dated February 19, 2002, and prior to the examination of the above-described application, please amend the present application as follows:

**IN THE SEQUENCE LISTING**

Please substitute the paper copy Sequence Listing attached hereto for the Sequence Listing originally filed.

**REMARKS**

Applicants have added into the present specification a substitute paper copy Sequence Listing section according to 37 C.F.R. §1.821(c). Furthermore, attached hereto is a 3 1/2" disk containing the "Sequence Listing" in computer readable form in accordance with 37 C.F.R. §1.821(e).

The following statement is provided to meet the requirements of 37 C.F.R. §1.825(a) and 1.825(b).

I hereby state, in accordance with 37 C.F.R. §1.825(a), that the amendments included in the substitute sheets of the sequence listing are believed to be supported in the application as filed and that the substitute sheets of the sequence listing are not believed to include new matter.

I hereby further state, in accordance with 37 C.F.R. §1.825(b), that the attached copy of the computer readable form is the same as the attached substitute paper copy of the sequence listing.

Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though

that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial" should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be designated as "artificial" even though it is necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or otherwise a fragment of a natural sequence.

The Examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

Applicants submit that the present application contains patentable subject matter and therefore urge the examiner to pass the case to issuance.

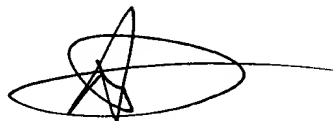
In re Appln. No. 09/765,644

If the examiner has any questions or comments concerning the above described application, the examiner is urged to contact the undersigned at the phone number below.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By



---

Allen C. Yun  
Registration No. 37,971

ACY:pr  
624 Ninth Street, N.W.  
Washington, D.C. 20001  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528

F:\,P\Prom\eis-schwartz13b\pto\response to comply with seq listing.wpd

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: EISENBACH-SCHWARTZ et al.

Application No.: 09/765,644

Conf. No. 6853

Filed: January 22, 2001

For: THE USE OF COPOLYMER 1 AND RELATED PEPTIDES AND POLYPEPTIDES...

Art Unit:

Examiner:

Washington, D.C.

Atty.'s Docket: EIS-SCHWARTZ=13B

Date: April 17, 2002

THE COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Sir:

Transmitted herewith is a [ ] Amendment [X] RESPONSE TO NOTICE TO COMPLY WITH SEQUENCE LISTING REQUIREMENTS  
in the above-identified application.

[ ] Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

[XX] No additional fee is required.

[ ] The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

ADDITIONAL FEE TOTAL

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 9	\$
x 42	\$
+ 140	\$
ADDITIONAL FEE TOTAL	
\$	

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 18	\$
x 84	\$
+ 280	\$
TOTAL	
\$	

OR

OR

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[ ] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

[ ] First - \$ 55.00  
[ ] Second - \$ 200.00  
[ ] Third - \$ 460.00  
[ ] Fourth - \$ 720.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

[ ] First - \$ 110.00  
[ ] Second - \$ 400.00  
[ ] Third - \$ 920.00  
[ ] Fourth - \$ 1440.00

Month After Time Period Set

[ ] Less fees (\$ ) already paid for month(s) extension of time on

[ ] Please charge my Deposit Account No. 02-4035 in the amount of \$

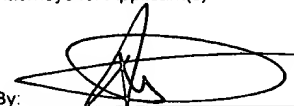
[ ] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$

[ ] A check in the amount of \$ is attached (check no. ).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

By:   
ALLEN C. YUN  
Registration No. 37,971

Facsimile: (202) 737-3528  
Telephone: (202) 628-5197

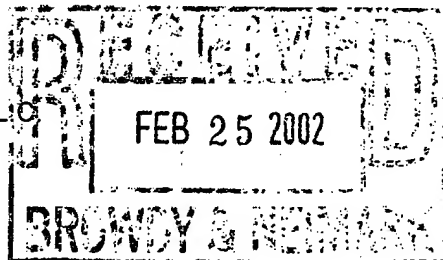


## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

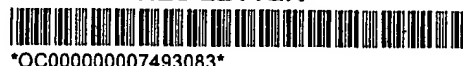
APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/765,644	01/22/2001	Michael Eisenbach-schwartz	EIS-SCHWARTZ=13B

BROWDY AND NEIMARK, P.L.L.C.  
624 Ninth Street, N.W.  
Washington, DC 20001



CONFIRMATION NO. 6853

## FORMALITIES LETTER



\*OC000000007493083\*

Date Mailed: 02/19/2002

### NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice MUST be returned with the reply.*

DKT 2/25/02  
SEQ=  
19AP2002

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE